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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,151	01/19/2006	Takao Wada	P1470US	8099

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EXAMINER
CAILLOUET, CHRISTOPHER C

ART UNIT	PAPER NUMBER
1791	

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04/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/565,151	WADA ET AL.	
	Examiner	Art Unit	
	CHRISTOPHER C. CAILLOUET	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 April 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,8-23 and 25-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1,3 and 8-14* is/are allowed.

6)☒ Claim(s) *15-23 and 25-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Examiner: Caillouet **April 17, 2009**

DISPOSABLE WEARING ARTICLE

1. The Amendment filed April 6, 2009 has been entered. Claims 15, 17, 20, 22-23 and 29 were amended.

2. The sections of Title 35, U.S. Code not included in this action can be found in prior Non-Final Office action mailed on May 12, 2008.

Claim Rejections - §112

3. Applicant's arguments, see pages 10-11 of Remarks, filed April 6, 2009, with respect to Claims 15 and 20 have been fully considered and are persuasive. The 112 2nd paragraph rejection of claims 15 and 20 in the January 5, 2009 office action has been withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15, 17-20 and 22-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Otsubo et al (US 6827804).

As to claims 15, 25 and 28, Otsubo teaches a method of making a disposable diaper (Abstract). As seen in Figures 2 and 5, Otsubo discloses a method that comprises of steps of forming a composite web by laminating elastic members ('64', '66', '73', '74') in between two web materials ('61', '70); cutting the composite web ('75') in a length direction so that a concave portion ('77') and a convex portion ('78') appear alternately, thus cutting both the outer and the inner surface webs; a step of attaching an absorber ('55') to bridge between cut first web and second web; a step of widening ('54') the first composite web and the second composite web to which the absorber is attached ('55'). Otsubo discloses that the elastic members are applied to the web in an extended state (column 4, lines 45-51). Otsubo discloses that the web is cut to define straight cut edges (Figure 5).

As to claim 17, Otsubo discloses a method wherein elastic members are inserted into a disposable wearing article. As seen in Figure 2, waist/body elastic members ('64', '66') and leg peripheral elastic members ('73' and '74') are attached to the web (column 4, lines 38-50).

As to claim 18, Otsubo discloses a step where composite web is folded upon itself and the first and second web components are sealed (column 5, lines 34-39; Figure 2, '57').

As to claims 19 and 26, the methods of claims 15 and 25, respectively, are taught as seen above. Otsubo discloses a step wherein leg openings are formed in the disposable wearing article (Figure 2, '56'; Figure 1, '41').

As to claims 20 and 27, Otsubo teaches a method of making a disposable diaper (Abstract). As seen in Figures 2 and 5, Otsubo discloses a method that comprises of steps of forming a composite web by laminating elastic members in an extended state ('64', '66', '73', '74'; column 4, lines 45-51) in between two web materials ('61', '70); cutting the composite web ('75') in a length direction so that a concave portion ('77') and a convex portion ('78') appear alternately, thus cutting both the outer and the inner surface webs; and a step of attaching an absorber ('55') to bridge between cut first web and second web. Otsubo further discloses a step wherein leg openings are formed in the disposable wearing article (Figure 2, '56'; Figure 1, '41').

As to claim 22, Otsubo discloses a method wherein elastic members are inserted into a disposable wearing article. As seen in Figure 2, waist/body elastic members ('64', '66') and leg peripheral elastic members ('73' and '74') are attached to the web (column 4, lines 38-50).

As to claim 23, the method of claim 20 is taught as seen above. Otsubo discloses a step where composite web is folded upon itself and the first and second web components are sealed while the absorber is in a folded state (column 5, lines 34-39; Figure 2, '57').

6. Claim 29 is rejected under 35 U.S.C. 102(a) as being anticipated by Otsubo et al. (US 6837958).

As to claim 29, Otsubo '958 teaches a method of making a disposable diaper (Abstract). As seen in Figures 3 and 5, Otsubo '958 discloses a method that comprises of steps of forming a composite web by laminating elastic members ('14') in between

two web materials ('30' and '34'); cutting the composite web ('35') in a length direction to form two composite webs ('36' and '37') with a single straight edge and spacing said composite webs from one another; a step of attaching an absorber ('3') to bridge between cut first web and second web; and a step wherein leg openings are formed in the disposable wearing article (Figure 5, S7, 'K2'; column 11, lines 50-63). Otsubo '958 discloses that the elastic members are applied to the web in an extended state (column 10, lines 26-33).

Claim Rejections - 35 USC § 103

7. Claims 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsubo et al (US 6827804) as applied to claims 28 and 27 respectively above, and further in view of Thorson et al. (US 6979380).

The methods of claims 28 and 27 are taught as seen above. Otsubo does not teach to shift the cut webs so that the concave portions of the respective webs oppose each other. Thorson teaches a method of manufacturing disposable undergarments (abstract). Thorson teaches that a web material is cut along the longitudinal direction thereby making webs that will be the front and rear panel of a diaper, each having a maximum and minimum rise respectively; shifting at least one of said rear and front body panels so that the maximum rises (concave portions) are aligned; and connecting an absorber to the webs, bridging the gap therein (column 15, lines 32-58). Thorson teaches that this method allows for flexibility in manufacturing different size garments (column 1, lines 49-52).

It would have been obvious to one of ordinary skill in the art to incorporate the teachings of Thorson onto the method of Otsubo because Thorson's method allows for flexibility in manufacturing different size garments (column 1, lines 49-52).

Response to Arguments

8. Applicant's arguments filed September 26, 2008 have been fully considered but they are not persuasive.

9. In response to applicant's argument that the references fail to show certain features of applicant's invention in claims 15 and 20, it is noted that the features upon which applicant relies (i.e., the inner and outer webs are cut before laminating elastic members between the two webs) are not recited in the rejected claim(s). Claims 15 and 20 still list specific cutting limitations that can be done in any chronological order, simultaneously, multiple separate cutting steps, or a single cutting step as is disclosed by Otsubo (US 6827804). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

10. Applicant's arguments with respect to claim 29 have been considered but are moot in view of the new ground(s) of rejection. As stated in the rejection above, Otsubo (US 6837958) discloses a method of making a diaper wherein an elastic composite web is cut so as to form two webs with a single straight edge that is spaced apart so as to attach an absorbent article to the two composite webs.

Allowable Subject Matter

11. Claims 1, 3, 8-14 are allowable.

12. The following is an examiner's statement of reasons for allowance: The claims recite a method for manufacturing a disposable wearing article wherein a web of material is cut into two separate webs; a cover sheet is attached to a first and second web of material and then said webs are spaced apart from one another thus expanding said cover sheet so that it is ready for an absorber to be attached to said cover sheet. The closest prior art of Otsubo does not teach the claimed method step of attaching a cover sheet in a contracted state to the webs of material and then expanding said cover sheet as the webs of material are spaced apart from one another. Otsubo discloses a method wherein a web of material is cut into two separate webs; the webs are spaced apart from one another; a cover sheet with absorber pad is then attached to the webs across the space between said webs.

The following references are considered relevant art but do not make up for the deficiencies of Otsubo: Igaue et al. (US 5858151) discloses a process for forming a disposable garment; Otsubo et al (US 6837958) discloses a method of forming a disposable garment.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER C. CAILLOUET whose telephone number is (571)270-3968. The examiner can normally be reached on Monday - Thursday; 9:30am-4:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Phillip Tucker can be reached on (571) 272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher C Caillouet/
Examiner, Art Unit 1791

/Mark A Osele/
Primary Examiner, Art Unit 1791
April 21, 2009